

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Confirmation No.: 2091

Eric Sven-Johan Swildens, et al.

GAU No.: 2154

Serial No.: 09/909,711

Examiner: Frantz B. Jean

Filed: July 19, 2001

For: METHOD FOR DETERMINING METRICS OF A CONTENT DELIVERY AND
GLOBAL TRAFFIC MANAGEMENT NETWORK

M/S Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37
CFR 1.181(a)

This Petition for Withdrawal of the Holding of Abandonment under 37 CFR §1.181(a) is in response to the Notice of Abandonment, marked Exhibit A, issued by the Office of Data Management dated January 28, 2008, in that the notice indicates Applicants' failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. Applicants contend that the application is not in fact abandoned.

On January 3, 2008, Applicants paid the Issue Fee due on January 4, 2008, within the three month statutory period, along with a Supplemental Submission of Fees to establish Large Entity status via first class mail. Photocopies of the Postcard, Issue Fee Transmittal and Supplemental Submission of Fees are attached as Exhibits B, C and D, respectively. In particular, Applicants call attention to page 1 of Exhibit "D" (the Supplemental Submission

of Fees) – acknowledging receipt of the fees and posted on January 11, 2008, for a total of \$2,446.00 which included the Issue Fee payment of \$1,740.00.

Therefore, the Applicants respectfully petition for: (a) the withdrawal of the holding of abandonment for failure to pay Issue Fee, (b) request reinstatement of the application, and (c) issuance of the patent.

CONCLUSION

The Office is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the consideration of the petition.

No fee is required for this petition under MPEP § 711.03(c). If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: March 18, 2008

/KirkDWong#43284/

Kirk D. Wong

Reg. No. 43,284

2055 Gateway Place, Suite 550
San Jose, California 95110
Telephone No.: (408) 414-1080 ext. 214
Facsimile No.: (408) 414-1076



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/909,711

07/19/2001

Eric Sven-Johan Swildens

60095-0024

2091

7590

01/28/2008

HICKMAN PALERMO TRUONG & BECKER, LLP
 2055 GATEWAY PLACE
 SUITE 550
 SAN JOSE, CA 95110

FEB - 1 2003

EXAMINER

JEAN, FRANTZ B

ART UNIT

PAPER NUMBER

2154

MAIL DATE

DELIVERY MODE

01/28/2008

PAPER

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____.

The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
 Office of Data Management

Exhibit "A"

processed by docketing
no dates docketed

Acknowledgment Receipt

DATE
RECEIVED

Mailing Date: January 3, 2008
Attorney Docket No.: 60095-0024
Serial No.: 09/909,711

Attorney: KDW/aj
First Class Mail

Inventor(s): Eric Sven-Johan Swildens, et al.
Title: METHOD FOR DETERMINING METRICS OF A CONTENT DELIVERY
AND GLOBAL TRAFFIC MANAGEMENT NETWORK

Documents Enclosed:

- 1) Issue Fee Transmittal (1 pg) (in duplicate)
- 2) Supplemental Submission of Fees (2 pgs)
- 3) Amendment Under CFR 1.312 (12 pgs)
- 4) Check in the amount of \$2,446.00
- 5) Return Acknowledgment Postcard



Kindly stamp the receipt date and return to addressee to acknowledge receipt of the above documents.

UDN0020

Exhibit "B"

PART B - FEE(S) TRANSMITTAL

RECEIVED

Complete and send this form, together with applicable fee(s), to: MailMail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

JAN 14 2008

OFFICE OF PETITIONS

INSTRUCTIONS: This form should be used when transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below. Indicate otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Use: Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmittal.

29989 7590 10/04/2007

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Certificate of Mailing or Transmittal
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Annette Jacobs (Depositor's name)
Annette Jacobs (Signature)
January 3, 2008 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/09/711 07/19/2001 Eric Sven-Johan Swidens 60095-0024 2091

TITLE OF INVENTION: METHOD FOR DETERMINING METRICS OF A CONTENT DELIVERY AND GLOBAL TRAFFIC MANAGEMENT NETWORK

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional YES NO \$730 \$1440 \$300 \$0 \$1440 01/04/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
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JEAN, FRANZ T B 2154 709-223000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

Kirk D. Wong
Hickman Palermo
Truong & Becker

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Akamai Technologies, Inc.

Cambridge, Massachusetts

Please check the appropriate assignee category or categories (will not be printed on the patent):

☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☒ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number: 50-1302 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☒ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date January 3, 2008

Typed or printed name Kirk D. Wong

Registration No. 43,284

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Exhibit "C"



Attorney Docket No. 60095-0024

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2008 JAN 10 PM 4:43

In re Application of:

Eric Sven-Johan Swildens, et al.

Serial No.: 09/909,711

Filing Date: July 19, 2001

For: METHOD FOR DETERMINING METRICS OF A CONTENT DELIVERY AND
GLOBAL TRAFFIC MANAGEMENT NETWORK

Mail Stop IF
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22301-1450

Confirmation No.: 2091

GAU: 2154

Examiner: Frantz B. Jean

RECEIVED

JAN 14 2008

OFFICE OF PETITIONS

SUPPLEMENTAL SUBMISSION OF FEES—37 C.F.R. 1.28(c)

Sir:

The undersigned patent owner hereby submits an issue fee payment of \$2,446.00 under 37 C.F.R. §1.28(c) for deficient payments made in error. The following is an itemization of the fees paid in error:

<u>Date Paid</u>	<u>Fee Type</u>	<u>Surcharge</u>	<u>Fee Paid</u>	<u>Fee Due</u>	<u>Difference</u>
7/19/01	Filing Fee	None	\$ 355.00	\$ 760.00	\$ 405.00
7/19/01	Add'l Dep Claims	None	\$ 198.00	\$ 396.00	\$ 198.00
7/19/01	Add'l Ind Claims	None	\$ 40.00	\$ 78.00	\$ 38.00
9/27/01	Missing Parts	None	\$ 65.00	\$ 130.00	\$ 65.00
1/2/08	Issue Fee	None	\$ 0.00	\$1,740.00	\$1,740.00

01/11/2008 DRLLEN 00000014 09909711

01 FC:1461

2446.00 DP

UDN0020

1

Exhibit "D"

Therefore, Commissioner is hereby authorized to charge the foregoing total fees of \$2,446.00 for the difference due to our deposit account no. 50-1302. The patent owner hereby requests acceptance in full payment of the deficiency due. However, if the calculation is insufficient, or in excess of the amount actually due, the Commissioner is hereby authorized to charge the foregoing total deficiency amount (including any applicable processing fee) or to credit any overpayment to our deposit account.

The patent owner further states that, at the time of payment of each of the fees itemized above for the patent, the applicants and the patent owner believed in good faith that the applicants had small entity status. The patent owner recently discovered that such small entity status was claimed in error.


The patent owner also submits that the within payment should be treated as a loss of entitlement to a small entity status under 37 C.F.R. §1.27(g)(2).

Questions regarding the within payment may be addressed to the undersigned.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Date: January 3, 2008


Kirk D. Wong
Registration No. 43,284

2055 Gateway Place, Suite 550
San Jose, California 95110-1089
Telephone: (408) 414-1080 ext. 214
Facsimile: (408) 414-1076

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on January 3, 2008

By 

Annette Jacobs